

ZONING RECLASSIFICATION APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014

Shaded Area For Office Use Only

Case No. 164

Date Filed 3/29/07

Hearing Date _____

Pre-Conf. _____

Receipt _____

Fee \$870.00

APR 3 2007

Note

1. It is required that the applicant have a pre-filing conference with the Department of Planning and Zoning to determine the necessary additional information that will be required.
2. The burden of proof in any rezoning case shall be upon the Petitioner.
3. Any application in a zoning case and any amendment thereto shall contain specific allegations setting forth the basis for granting of the request.
4. Petition must contain names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.
5. Application will be reviewed for completeness within ten (10) working days of submittal. Applicant will be notified by mail of completeness of application.

Petitioner

Name 2001 Conowingo Road, LLC Phone Number Call Attorney

Address P. O. Box 230, Jarrettsville, Maryland 21084-0230
Street Number Street State Zip Code

Property Owner Same as above. Phone Number _____

Address _____
Street Number Street State Zip Code

Contract Purchaser N/A Phone Number _____

Address _____
Street Number Street State Zip Code

Attorney/Representative Robert S. Lynch, Esquire Phone Number (410) 879-2222

Address Stark and Keenan, P.A., 30 Office Street, Bel Air, Maryland 21014
Street Number Street State Zip Code

Land Description

Address and Location of Property (with nearest intersecting road) Conowingo Road, Bel Air, MD 21014
Property located on the northside of U.S. 1 (Bel Air Bypass) and west of MD Route 23.

Subdivision N/A Lot Number N/A Acreage/Lot Size 26.684 ac. Election District 3rd

Existing Zoning AG Proposed Zoning CI Acreage to be Rezoned 26.684 acres

Tax Map No. 41 Grid No. 1A Parcel P/O 420 Deed Reference 7121/0012

Critical Area Designation N/A Land Use Plan Designation Industrial/Employment

Present Use and ALL improvements: vacant.

Proposed Use (If for subdivision development, proposed number of lots, type of dwellings, and type of development.

Example: Conventional, Conventional with Open Space, Planned Residential Development) commercial.

Is the property designated a historic site, or does the property contain any designated or registered historic structures?

No. If yes, describe: _____

Estimated Time Requested to Present Case: 2 hours.

Required Information To Be Attached

(Submit three (3) copies of each):

- (a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five hundred (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation.
- (b) A statement of the grounds for the application including:
 - (1) A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.
 - (2) A statement as to whether there is an allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change.
- (c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.
- (d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:
 - (1) Location of site.
 - (2) Proposed nature and distribution of land uses, not including engineering drawings.
 - (3) Neighborhood (as defined by the Applicant).

- (4) All surrounding zoning.
- (5) Proposed public or private capital improvements.
- (e) Previous individual rezonings and recommendation since the effective date of the Comprehensive Rezoning, within the neighborhood of the petitioned area, their case numbers, dates, and decisions.
- (f) Environmental features map indicating woods, fields, streams, floodplains, non-tidal wetlands, etc.
- (g) Property deed and a boundary survey prepared and sealed by a registered surveyor, including dimension of area requested to be rezoned if only a portion of the property.
- (h) Private restrictions or covenants, if any, applicable to subject parcel.
- (i) Any agreements with individuals or associations in the neighborhood related to the proposed zoning shall be submitted.
- (j) Availability of public water and sewer.

Additional Information as Required by the Department of Planning and Zoning

- (a) Existing and proposed libraries, parks, schools, fire and police departments.
- (b) Demonstration of compatibility of the proposed use with existing and proposed development for the area.
- (c) Traffic impact study.
- (d) Economic and Environmental impact studies.
- (e) Estimated population for existing and proposed petitioned area and neighborhood, as defined.
- (f) Soils analysis.
- (g) Aerial photograph.

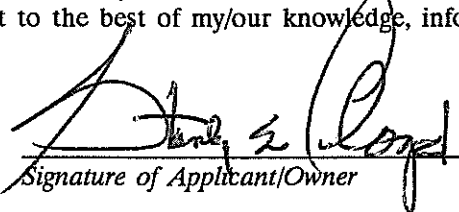
CASE 164 MAP 41 TYPE Rezoning

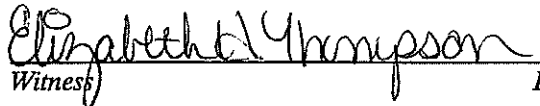
ELECTION DISTRICT 03 LOCATION Conowingo Road, Bel Air 21014

BY 2001 Conowingo Road, LLC, PO Box 230, Jarrettsville 21084

Appealed because a rezoning pursuant to Section 267-12A of the Harford County Code to rezone 26.684 acres from a AG District to a CI District requires approval by the Board.

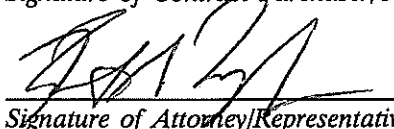
I/We do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavit are true and correct to the best of my/our knowledge, information, and belief.

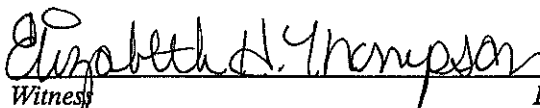

Signature of Applicant/Owner Date

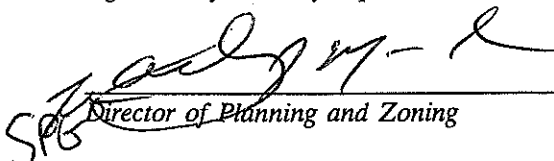

Witness Date

Signature of Contract Purchaser/Owner Date

Witness Date


Signature of Attorney/Representative Date


Witness Date


Director of Planning and Zoning Date 4/12/07


Zoning Staff Date

2001 CONOWINGO ROAD, LLC

Harford County Board of Appeals
Piecemeal Rezoning Application

Definition of Neighborhood

The neighborhood is defined as an approximate one (1) mile radius from the subject property.

Master Plan Conformance

The subject property is currently designated as Industrial/Employment in the Harford County Land Use Plan. The proposed rezoning of the property from AG to a CI zoning classification is consistent with the plan for the area. Industrial/Employment Land Use designation is defined as, "areas of concentrated manufacturing, distribution, technical, research, office and other activities generally located along major transportation corridors." The subject property is bounded on the west by U.S. Route 1, to the north by Maryland Route 543 and to the east by the Bel Air Bypass. These roads are considered major arterial highways due to their level of service. This rezoning request is consistent with the policies outlined within the transportation element of the Land Use Plan due to its proximity to these highways. The rezoning of this property to a CI classification will provide economic development opportunities that are more suitable for the surrounding land uses in this part of the Greater Bel Air/Hickory Community. Retail service uses are already in close proximity to the subject site. The subject property is located within the Development Envelope and is consistent with the policies in the Master Water and Sewer Plan and public utilities are available.

Change in Character of Neighborhood and Mistake

Since the time of the last Comprehensive Rezoning, there have been numerous changes in the character of the neighborhood. There has been new construction of retail service uses in the neighborhood as a result of the construction and realignment of U.S. Route 1. In addition, the County has constructed a large recreational complex in the neighborhood which has been a source of much traffic generation. A new car dealership has been constructed on what was once known as the Church of the Nazarene property. With the reorientation of the highways, the subject property becomes much more feasible for retail service uses as opposed to Agricultural Uses. There has not been any development of Industrial/Employment in the general neighborhood as the majority of the land uses are now

service uses and are highway oriented. The Master Plan designates this property as Industrial/Employment area. The current zoning, AG (Agricultural) was retained during the last 1997 Comprehensive Rezoning review. At that time, the Property was owned by the State Highway Administration and it was mistakenly assumed the land would be used by the State and therefore, the Property retained its AG zoning. AG or Agricultural zoning is not appropriate for this Property. It is situated within the Development Envelope and Section 267-34A(G)(A) states that, "the purpose of this district is to provide for continued farming activities, conserve agricultural land and reaffirm agricultural uses, activities and operations within the agricultural zoning areas. It is the further purpose of this district to maintain and promote the rural character of this land as well as promote the continuance and viability of the farming and agricultural uses. Low density residential development is also permitted." The premise, back in 1997, that this Property is appropriate for AG use has not born out to fruition. Assumptions in 1997 were incorrect, the land use patterns and development that has occurred are not compatible with an Agricultural use of the Property. On that basis alone, the property should be rezoned to a CI designation which allows a wider range of commercial uses.

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

August 10, 2007

ADDENDUM TO STAFF REPORT

BOARD OF APPEALS CASE NO. 164

APPLICANT/OWNER: 2001 Conowingo Road, LLC
P.O. Box 230, Jarrettsville, Maryland 21084

REPRESENTATIVE: Robert S. Lynch, Esquire
Stark and Keenan, P.A.
30 Office Street, Bel Air, MD 21014

LOCATION: Tax Map: 41 / Grid: 1A / Parcel: 420
Election District: Three (3)

ACREAGE: 26.684 acres

ACREAGE TO BE REZONED: 26.684 acres

EXISTING ZONING: AG/Agricultural District

PROPOSED ZONING: CI/Commercial Industrial District

NEIGHBORHOOD

The Department has reviewed the revised neighborhood submitted by the Applicant (Attachment 1). The revised neighborhood defined by the Applicant is an appropriate description and generally conforms to the neighborhood defined by the Department.

SITE PLAN

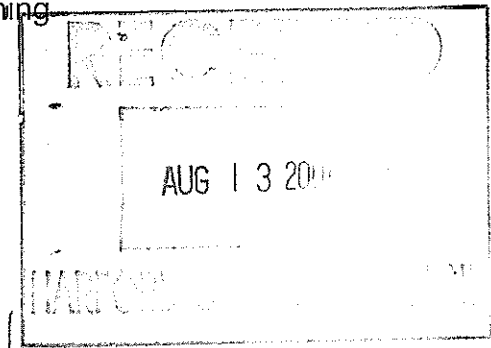
The Department has reviewed the revised site plan submitted by the Applicant (Attachment 2). The Applicant's revised site plan continues to propose a retail pad site, a home improvement center, and associated parking and stormwater management within the non-tidal wetlands and

Preserving Harford's past; promoting Harford's future

MY DIRECT PHONE NUMBER IS (410) 638-3103

220 SOUTH MAIN STREET BEL AIR, MARYLAND 21014 410.638.3000 • 410.879.2000 • TTY 410.638.3086 • www.harfordcountymd.gov

THIS DOCUMENT IS AVAILABLE IN ALTERNATIVE FORMAT UPON REQUEST.



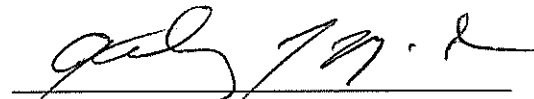
associated 75-foot Natural Resource District (NRD) buffer. Development is not permitted within the non-tidal wetlands or 75-foot NRD buffer.

The Applicant's revised site plan may constitute an Integrated Community Shopping Center (ICSC). An ICSC is not permitted in the CI/Commercial Industrial District. Furthermore, the Applicant's revised site plan shows a "Proposed Sit Down Restaurant" on an adjacent parcel that is zoned R2/Urban Residential District. This adjacent parcel is not included in this rezoning request or the Applicant's accompanying requests.

CONCLUSION

The Department has reviewed the Applicant's revised neighborhood and revised site plan. The Department's position as detailed in the original Staff Report remains unchanged. The Department of Planning and Zoning recommends that the request to rezone the subject property from GI/General Industrial District to CI/Commercial Industrial District be denied.

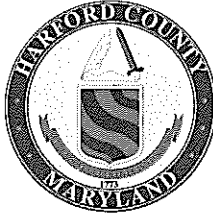

Shane Grimm, AICP
Chief, Site Plans & Permits Review


Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

SPG/ASM/jf

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

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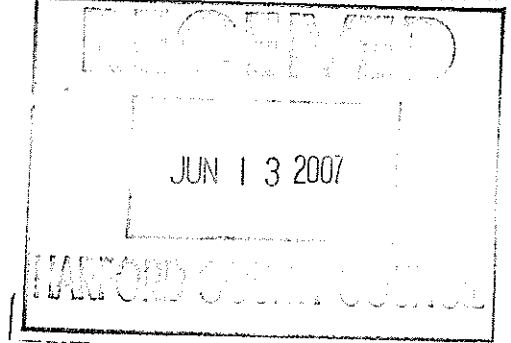
HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

May 22, 2007

STAFF REPORT

BOARD OF APPEALS CASE NO. 164



APPLICANT/OWNER: 2001 Conowingo Road, LLC
P.O. Box 230, Jarrettsville, Maryland 21084

REPRESENTATIVE: Robert S. Lynch, Esquire
Stark and Keenan, P.A.
30 Office Street, Bel Air, MD 21014

LOCATION: Tax Map: 41 / Grid: 1A / Parcel: 420
Election District: Three (3)

ACREAGE: 26.684 acres

ACREAGE TO BE REZONED: 26.684 acres

EXISTING ZONING: AG/Agricultural District

PROPOSED ZONING: CI/Commercial Industrial District

DATE FILED: March 29, 2007

HEARING DATE: June 20, 2007

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

The Applicant is requesting to rezone 26.684 acres from AG/Agricultural District to CI/Commercial Industrial District.

Preserving Harford's past; promoting Harford's future

STAFF REPORT

Board of Appeals Case Number 164

2001 Conowingo Road, LLC

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Justification:

See ATTACHMENT 1.

LAND USE AND ZONING ANALYSIS:

Location and Description of Neighborhood:

The Applicant's property is located north of Bel Air in the community of Hickory. The parcel is situated on the north side of the Hickory Bypass, west of MD Route 543. A location map and a copy of the Applicants' site plan are enclosed with the report (Attachments 2 and 3A & B).

The Department defines the neighborhood as all those properties east of Water Tower Way, between Business Route 1 and the Hickory Bypass; including those properties on the north side of Business Route 1. The northern limit of the neighborhood is the intersection of Business Route 1 and the Hickory Bypass. The neighborhood also extends approximately 2,000+/- feet south along MD Route 543 and includes all those properties on the east and west side of MD Route 543. Enclosed is a copy of a map showing the above referenced neighborhood (Attachment 4).

Land Use – Master Plan:

The subject property is located on the north side of the Hickory Bypass west of the MD Route 543 intersection. The area contains a mix of Land Use designations including Medium and High Intensities and Industrial/Employment. The Natural Features Map reflects stream systems. The subject property is designated as Industrial Employment which is defined by the 2004 Master Plan as:

***Industrial Employment** – Areas of concentrated manufacturing, distribution, technical, research, office, and other activities generally located along major transportation corridors.*

Enclosed with the report are copies of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses generally conform to the intent of the Master Plan. The area contains single-family residential, commercial, industrial and institutional uses. Some of the commercial uses in the area include a car wash, farm equipment sales, gas stations/convenience stores, restaurants, carry-out food establishments, mini-warehousing, and banks. Industrial uses in the area such as warehousing, manufacturing, and processing are associated with the Wyndemede Corporate Center. The Hickory Elementary School and St. Ignatius Church represent some of the institutional uses in the area.

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2001 Conowingo Road, LLC

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The subject property was acquired by the State Highway Administration (SHA) in 1965. The Hickory Bypass was subsequently constructed during the 1990's using a portion of the property acquired by the State in 1965. The Applicant acquired the 26.684+/- acres that is the subject of this rezoning request from the State in October of 2006. The remainder of the original parcel continues to be owned by the State.

The environmental features map and site plan do not accurately reflect the streams that traverse the subject property. Additionally, the Harford County Soil Survey Map indicates that more than half of the subject property is underlain with Watchung (WaB) soils. Watchung soils are a hydric soil group which may indicate the presence of non-tidal wetlands. The Applicant recently applied for and was granted a Forest Harvest Permit for the subject property. The Department requested that the Applicant perform a non-tidal wetland delineation prior to approval of the permit. The non-tidal wetland delineation dated May 25, 2007 shows extensive areas of wetlands on the subject property that extend on to adjacent parcels (Attachment 7). Approximately 75% of the subject property is encumbered by streams and non-tidal wetlands. The Department field verified the location of the streams and non-tidal wetlands. There is an additional stream shown on the delineation and the other streams extend further than what is shown on the Applicant's environmental features plan.

The topography within the area ranges from level to rolling. The subject property is gently sloping from the west to the east. The subject property is currently densely wooded. Enclosed with the report are copies of the topography map and the aerial photograph (Attachments 8 and 9)

The subject property is irregularly shaped and is approximately 26.684+/- acres in size. It is bordered to the east by the Hickory Bypass. There are several lots within the Hickory Manor residential development that are currently improved with single-family dwellings and abut the subject property to the west. Tucker Field, a Harford County Parks and Recreation Facility, also abuts the subject property to the west. A "Park and Ride" facility is located on the parcel that abuts the subject property to the south. Although the property has frontage on the Hickory Bypass, the State Highway Administration (SHA) has designated this section of roadway as "denied access". Enclosed with the report are site photographs (Attachment 10).

Zoning and Zoning History:

Zoning:

The zoning classifications in the area are generally consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning includes R2 and R3/Urban Residential Districts and RO/Residential Office. Commercial zoning includes B3/General Business. Industrial zoning includes CI/Commercial Industrial District and GI/General Industrial District. There are also parcels that are zoned AG/Agricultural within the neighborhood defined by the Department of Planning and Zoning. The subject property is zoned AG/Agricultural District as shown on the enclosed copy of the Zoning Map (Attachment 11).

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2001 Conowingo Road, LLC

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Zoning History:

The subject property has remained zoned AG/Agricultural District since 1957 (Attachments 12 - 15).

BASIS FOR INDIVIDUAL REZONING REQUEST:

Under Maryland case law, the burden of proof lies with the Applicant to provide information that there has been a substantial change in the overall character of the neighborhood or that the County made a mistake during the last comprehensive zoning review process. It should be noted that the Courts have stated that any argument for change cannot be based on existing changes that were anticipated during the last comprehensive review.

Substantial Change Argument:

The Applicants argue that the subject property can no longer be used for intensive industrial uses generally associated with the GI/General Industrial District. The Applicants state that, "Since the time of the last Comprehensive Rezoning, there have been numerous changes in the character of the neighborhood. There has been new construction of retail service uses in the neighborhood as a result of the construction and realignment of US Route 1. In addition, the County has constructed a large recreational complex in the neighborhood which has been a source of much traffic generation. A new car dealership has been constructed on what was once known as the Church of the Nazarene Property. With the reorientation of the highways, the subject property becomes much more feasible for retail service uses as opposed to Agricultural Uses. There has not been any development of Industrial/Employment in the general neighborhood as the majority of the land uses are now service uses and are highway oriented."

The Department finds that there has not been a substantial change in the neighborhood. The BMW dealership was developed on property zoned CI/Commercial Industrial. Motor vehicle sales are permitted as a matter of right in the CI/Commercial Industrial District. Tucker Field is a County Parks and Recreation facility which is located on a parcel that is zoned AG/Agricultural. Parks and recreation uses are permitted as a matter of right in all zoning districts. The development of the Hickory Village Shopping Center with retail and service uses was also developed in accordance with the existing B3/General Business zoning.

The Applicant's argument that the increase in traffic generation has caused a substantial change in the neighborhood is unfounded. The neighborhood as defined by the Department is located entirely within the Development Envelope where more intensive uses are permitted and encouraged. The increase in traffic is an anticipated result of the development of uses in the area that are consistent with the Land Use Plan and existing zoning. Additionally, the Applicant argues that the subject property is more feasible for retail uses due to the reorientation of the highways. While the construction of the Hickory Bypass has helped to relieve congestion within the village of Hickory, the State Highway Administration (SHA) has designated the Bypass as a

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2001 Conowingo Road, LLC

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“denied access” highway. Therefore, the reorientation of the highways has not had the effect of making the subject property more feasible or accessible for retail uses.

As stated above, the development which has occurred in the area is consistent with the existing zoning and Land Use Plan. Therefore, the Department finds that there has not been a substantial change in the neighborhood.

Mistake:

The Applicant states that, “The Master Plan designates this property as a Industrial/Employment area. The current zoning, AG (Agricultural) was retained during the last 1997 Comprehensive Rezoning review. At that time, the Property was owned by the State Highway Administration and it was mistakenly assumed the land would be used by the State and therefore, the Property retained its AG zoning. AG or Agricultural Zoning is not appropriate for this Property. It is situated within the Development Envelope and Section 267-34A(G)(A) states that, “the purpose of this district is to provide for continued farming activities, conserve agricultural land and reaffirm agricultural uses, activities and operation within the agricultural zoning areas. It is the further purpose of this district to maintain and promote the rural character of this land as well as promote the continuance and viability of the farming and agricultural uses. Low density residential development is also permitted.” The premise back in 1997, that this Property is appropriate for AG use has not born out to fruition. Assumptions in 1997 were incorrect, the land use patterns and development that has occurred are not compatible with an Agricultural use of the Property. On that basis alone, the property should be rezoned to a CI designation which allows a wider range of commercial uses.”

The subject property is designated as Industrial/Employment and is currently zoned AG/Agricultural District. This rezoning request accompanies four other rezoning requests (Case Nos. 121, 122, 123 and 163) for adjacent parcels. The Applicant’s site plan includes all five parcels and appears to show an Integrated Community Shopping Center (ICSC). As stated above, approximately 75% of the subject property is encumbered by streams and non-tidal wetlands. The Applicant’s site plan proposes two retail pad sites, three restaurant pad sites, and associated parking and stormwater management within the non-tidal wetlands and 75-foot Natural Resource District (NRD) buffer. Development is not permitted within the non-tidal wetlands or 75-foot NRD buffer.

Furthermore, an ICSC is not permitted in the CI/Commercial Industrial District. The Department is recommending that the four rezoning requests that accompany this request be denied. The rezoning of this property to CI/Commercial Industrial District would constitute a “spot zoning” if the Board denied the four other rezoning requests. The rezoning of the subject property could be addressed during the next Comprehensive Rezoning review. Therefore, the Department disagrees with the Applicant’s justification that the County made a mistake during the 1997 Comprehensive Rezoning review by allowing the subject property to retain its AG/Agricultural District zoning.

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2001 Conowingo Road, LLC

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ANALYSIS OF INDIVIDUAL ZONING REQUEST:

Conformance with the Master Plan and Land Use Element Plan:

The proposed rezoning is in conformance with the intent of the 2004 Master Plan. The Land Use Plan shows the area designated as Industrial/Employment.

Impact on the neighborhood:

The requested rezoning would not adversely impact the neighborhood.

COMMENTS FROM ADVISORY GROUPS:

History Preservation Commission:

This property is not in a historic district and there are no historic sites on the property.

Planning Advisory Board:

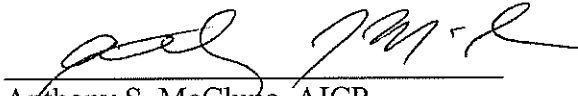
The Planning Advisory Board (PAB) reviewed the request at their meeting on May 9, 2007. The PAB voted 3-0 to recommend that the requested change in zoning be denied (Attachment 16).

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request to rezone the subject property from AG/Agricultural District to CI/Commercial Industrial District be denied.


Shane Grimm, AICP
Chief, Site Plans & Permits Review

SPG/ASM/jf


Anthony S. McClune, AICP
Deputy Director, Planning and Zoning